

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 120540-001-SF

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this _____ day of November 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On June 9, 2011, XXXXXX, authorized representative of her husband XXXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006, MCL 550.1952 *et seq.* The Commissioner reviewed the material submitted and accepted the request on June 16, 2011.

The Petitioner receives health care benefits under Medicare and through the City of XXXXXX, a self-funded local government group. This review concerns health care benefits under the City of XXXXXX plan which is self-funded and administered by Blue Cross and Blue Shield of Michigan (BCBSM). Act 495 authorizes the Commissioner to conduct external reviews for state and local government employees who receive health care benefits in a self-funded plan. Under Act 495, the reviews are conducted in the same manner as reviews conducted under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner's non-Medicare-related benefits are described in two BCBSM certificates of coverage: the *Professional Services Group Benefits Certificate* and the *Master Medical Supplemental Benefit Certificate Catastrophic Coverage Plan Option 5* (the certificates). The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

In March 2010, the Petitioner received chemotherapy and radiation treatment for nasopharyngeal cancer. Due to this treatment he experienced chronic gingivitis and tooth decay which caused an inability to be able to eat. His dentist recommended extraction of all of his teeth and submitted an authorization request for BCBSM to provide coverage. The dentist estimated the cost to be \$5,850.00.

BCBSM denied authorization. The Petitioner appealed the denial. BCBSM held a managerial-level conference on April 19, 2011, and issued a final adverse determination dated May 19, 2011, affirming its denial of coverage.

III. ISSUE

Is BCBSM required to provide coverage for Petitioner's requested dental treatment?

IV. ANALYSIS

Petitioner's Argument

The Petitioner's wife states they were informed that BCBSM would provide coverage for the proposed treatment plan if the teeth extractions were performed in a hospital. She also states they cannot afford to pay for the extractions and want BCBSM to provide coverage.

The Petitioner's physician, Dr. XXXXX, wrote to BCBSM in a letter dated May 26, 2011:

I am writing this letter in regards to my patient . . . who suffers from nasopharyngeal cancer and has undergone radiation therapy. He has since had chronic suffering of gingivitis, tooth decay and is unable to eat due to these problems. It is also providing a source of infection. His inability to chew/eat is causing even more weight loss which has become very concerning. In my opinion, he should have his teeth removed and I feel it is medically necessary. . . .

The Petitioner's wife also asserts that, because her husband's dental problems are the result of treatment he received for a medical condition, BCBSM is required to cover the dental services. In addition, she believes the dental care is medically necessary to avoid life-threatening infections and should be covered under the certificates.

BCBSM's Argument

In its final adverse determination of May 19, 2011, BCBSM wrote:

As explained in your *Professional Services Group Benefit Certificate, Section 2: Coverage for Physician and Other Professional Provider Services*, dental surgery is only payable for multiple extractions when a hospitalized patient has a dental condition that is adversely affecting a medical condition and treatment of the dental condition is expected to improve the medical condition. . . .

You are also covered under the *Master Medical Supplemental Benefit Certificate Catastrophic Coverage Plan Option 5*. As explained in *Section 3: Payable Services*, we pay our approved amount for treatment of accidental injuries. An accidental injury is defined as occurring when an external force to the lower half of the face or jaw damages or breaks sound natural teeth, periodontal structures (gums) or bone. We pay for emergency treatment within 24 hours of the accidental injury to relieve pain and discomfort. We do not pay for dental conditions existing before the accident.

Commissioner's Review

The two certificate provisions cited in BCBSM's final adverse determination relate to Petitioner's request for dental surgery: The *Professional Services Group Benefit Certificate* (page 2.3) provides:

- Dental surgery is payable **only** for:
 - Multiple extractions or removal of unerupted teeth, alveoplasty or gingivectomy when a hospitalized patient has a dental condition that is adversely affecting a medical condition and treatment of the dental condition is expected to improve the medical condition. Examples include:
 - Bleeding or clotting abnormalities
 - Unstable angina
 - Severe respiratory disease
 - Known reaction to analgesics, anesthetics, etc.

In addition, BCBSM's *Master Medical Supplemental Benefit Certificate Catastrophic Coverage Plan Option 5* provides dental coverage for emergency dental treatment and temporomandibular joint treatment (under limited circumstances).

The certificates primarily cover medical services; dental care is only covered in very limited circumstances. Those circumstances are described in the certificate of coverage provisions cited above. None of those circumstances describe the Petitioner's situation.

The Commissioner understands the Petitioner's need to have his teeth extracted. Unfortunately, his health care coverage does not include this procedure. The Commissioner concludes that BCBSM's decision is consistent with the terms of the certificates.

V. ORDER

Blue Cross Blue Shield of Michigan's final adverse determination of May 19, 2011, is upheld. BCBSM is not required to provide coverage for Petitioner's requested dental care.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner